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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 J. MICHAEL SCHAEFER,
8 Plaintiff,

9 v.

10 STEPHEN HUNDLEY,
11 Defendant.

Case No. 2:15-cv-02017-RFB-VCF

ORDER

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13 At a scheduled hearing on November 13, 2019, the Court instructed Plaintiff J. Michael
14 Schaeffer to retain counsel within three weeks from the date of the hearing or the case would be
15 dismissed. ECF No. 108. Rather than retain counsel as the Court requested, Plaintiff proceeded to
16 file a motion for reconsideration of the Court's order.

17 "Whether or not to grant reconsideration is committed to the sound discretion of the court."
18 Navajo Nation v. Confederated Tribes and Bands of the Yakama Indian Nation, 331 F.3d 1041,
19 1046 (9th Cir. 2003). However, "a motion for reconsideration should not be granted, absent highly
20 unusual circumstances, unless the district court is presented with newly discovered evidence,
21 committed clear error, or if there is an intervening change in the controlling law." Marlyn
22 Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal
23 quotation and citation omitted). A motion for reconsideration "may *not* be used to raise arguments
24 or present evidence for the first time when they could reasonably have been raised earlier in the
25 litigation." Id. (internal quotation and citation omitted). Moreover, "[m]otions for reconsideration
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1 are disfavored. A movant must not repeat arguments already presented unless (and only to the
2 extent) necessary to explain controlling, intervening law or to argue new facts. A movant who
3 repeats arguments will be subject to appropriate sanctions.” LR 59-1.
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5 The Court declines to reconsider its order. In the course of reviewing several of the
6 convoluted motions by the parties and potentially preparing the case for trial, it became clear that
7 Plaintiff was seeking to vindicate or rely upon legal claims belonging to a Nevada corporation,
8 Schaefer-Nevada, Inc., without counsel.

9 The Court incorporates by reference its previous findings on the record and makes the
10 following factual findings in connection with this motion. Plaintiff initiated this litigation with a
11 complaint in which he alleged that he was the “unequivocal and total assignee” of an “active”
12 Nevada corporation, Schaefer-Nevada, Inc. Pl.’s Compl., ECF No. 1, at 1 – 2. In his complaint he
13 sought to assert claims based upon legal rights or claims that belong to this corporation but had
14 been “assigned” to him. At the time of the filing of the original complaint, Plaintiff was an officer
15 of the corporation. The Court provided Plaintiff with various opportunities to clarify his claims.
16 Specifically, it was brought to Plaintiff’s attention through the filings of the Defendant and the
17 Court that counsel was required for corporations to proceed in federal court in this circuit. See
18 United States v. High Country Broad. Co., Inc., 3 F.3d 1244, 1245 (9th Cir. 1993) (“A corporation
19 may appear in federal court only through licensed counsel.”); see also 28 U.S.C. § 1654. Plaintiff
20 subsequently filed an amended complaint. In his amended complaint, ECF No.26, Plaintiff then
21 asserted that he was the “assignee of the interests of a *dissolved* Nevada corporation.” (emphasis
22 added). He attached to his amended complaint an unauthenticated purported assignment
23 agreement, to which he is not a signatory, that is dated October 19, 2015—the date on which
24 Plaintiff filed his original complaint and at a time when the corporation had not yet (allegedly)
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1 been dissolved. The claims brought by Plaintiff are claims of the corporation and the corporation,
2 through Plaintiff as an officer, had previously attempted to seek a resolution of its disputes with
3 the defendants before this litigation was initiated.

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5 The Court again finds that Plaintiff may not proceed in this action without representation
6 of counsel. First, as the Court has noted, a corporation may only proceed in federal court when
7 represented by counsel. The initiation of this litigation and the purported assignment of interest in
8 this case occurred at a time when the corporation was active and not dissolved. The Court finds
9 that Plaintiff cannot blatantly disregard the requirement for counsel under federal law by seeking,
10 while serving as an officer, to dissolve the corporation subsequent to the purported assignment.
11 See Gottlieb v. Alphabet Inc., No. 5:17-cv-06860, 2018 WL 2010976, (N.D. Cal. 2018)
12 (dismissing case in which pro se litigant assigned corporation's interest to himself to avoid being
13 required to retain counsel); aff'd on same grounds in Gottlieb v. Alphabet, Inc., 787 F.App'x 477
14 (9th Cir. 2019).

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16 Moreover, the alleged dissolution of the corporation does not alter this Court's holding.
17 Nevada law allows for post-dissolution suits by or against dissolved corporations. Nev. Rev. Stat.
18 § 78.585. When a corporation is dissolved under Nevada law, the dissolved corporation's directors
19 become trustees for the dissolved corporation. Nev. Rev. Stat. § 78.590. But those suits still require
20 the presence of licensed counsel to litigate on behalf of those trustees. See C.E. Pope Equity Tr. v.
21 U.S., 818 F.2d 696, 698 (9th Cir. 1987) (non-attorney trustees may not represent themselves in
22 federal court). Schaeffer does not allege or purport to be a trustee of the dissolved corporation.

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24 Furthermore, the Court finds that any alleged assignment under Nevada law is not effective
25 to overcome the requirement of counsel in this case. Under Nevada law, a corporate interest cannot
26 be assigned for the purpose of circumventing Nevada's requirement that corporations must be
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1 represented by counsel in state court. Sunde v. Contel of California, 915 P.2d 298, 299 (Nev.
2 1996)(holding that corporation cannot assign its interest to a corporate officer to avoid requirement
3 that corporation may only be represented by counsel in Nevada courts). Based upon the facts of
4 this case, the Court finds it appropriate to apply Sunde to this case as it discourages forum-
5 shopping and avoids the inequitable administration of laws. Hanna v. Plumer, 380 U.S. 460, 468-
6 71 (1965)(explaining the dual aims in applying Erie doctrine). The Court thus finds on the facts of
7 this case that Plaintiff, as a pro se litigant, may not circumvent federal law requiring counsel for
8 the representation of corporate interests through a corporate assignment to himself.
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10 The Court afforded Plaintiff an opportunity to retain counsel to continue with this litigation.
11 The Court explicitly warned Plaintiff on November 13, 2019 that he must retain counsel or the
12 case would be dismissed. Plaintiff has not retained counsel in this case. Plaintiff has presented no
13 credible facts to alter the Court's findings regarding the requirement that he have counsel to
14 proceed in this case. Accordingly, the Court finds that dismissal is warranted in this case. The case
15 shall be dismissed, and all pending motions denied as moot.
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17 For the reasons stated,
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19 **IT IS ORDERED** that Plaintiff J. Michael Schaefer's Motion for Reconsideration (ECF
20 No. 109) is DENIED. This case is dismissed.

21 **IT IS FURTHER ORDERED** that Defendant Stephen Hundley's Motion to Strike (ECF
22 No. 111) is DENIED as moot.

23 **IT IS FURTHER ORDERED** that Defendant Stephen Hundley's Motion to Dismiss
24 (ECF No. 112) is DENIED as moot.

25 **IT IS FURTHER ORDERED** that Plaintiff J. Michael Schaefer's Motion for Summary
26 Judgment (ECF No. 117) is DENIED as moot.

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1 **IT IS FURTHER ORDERED** that Defendant Stephen Hundley's Motion to Strike (ECF
2 No. 121) is DENIED as moot.

3 **IT IS FURTHER ORDERED** that Defendant Stephen Hundley's Motion to Dismiss
4 (ECF No. 122) is DENIED as moot.

5 **IT IS FURTHER ORDERED** that Plaintiff J. Michael Schaefer's Motion to Return Case
6 Anew (ECF No. 126) is DENIED as moot.

7 **IT IS FURTHER ORDERED** that Plaintiff J. Michael Schaefer's Motion for Summary
8 Judgment (ECF No. 127) is DENIED as moot.

9 **IT IS FURTHER ORDERED** that Plaintiff J. Michael Schaefer's Motion/Exhibit re:
10 Parties (ECF No. 128) is DENIED as moot.

11 **IT IS FURTHER ORDERED** that Plaintiff J. Michael Schaefer's Motion for Judgment
12 is DENIED (ECF No. 130) is DENIED as moot

13 The Court dismisses this case and instructs the Clerk of the Court to close the case.

14 DATED: May 27, 2020.



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16 **RICHARD F. BOULWARE, II**
17 **UNITED STATES DISTRICT JUDGE**
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